

**BARAFF, KOERNER, OLENDER & HOCHBERG, P. C.**

ATTORNEYS AT LAW  
5335 WISCONSIN AVENUE, N. W., SUITE 300  
WASHINGTON, D. C. 20015-2003

(202) 686-3200

**ORIGINAL**

B. JAY BARAFF  
ROBERT L. OLENDER  
JAMES A. KOERNER  
PHILIP R. HOCHBERG  
AARON P. SHAINIS  
LEE J. PELTZMAN  
ALAN E. ARONOWITZ

OF COUNSEL  
ROBERT BENNETT LUBIC  
MARK J. PALCHICK

FAX: (202) 686-8282

July 19, 1991

REC'D MASS MFD BUR

JUL 22 1991

VIDEO SERVICES

RECEIVED

JUL 19 1991

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M. Street, N.W.  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Channel 54, Slidell, Louisiana  
File Nos. BPCT-900518KO  
BPCT-900726KG

Dear Ms. Searcy:

Transmitted herewith, on behalf of Caroline K. Powley d/b/a Unicorn Slidell, applicant in the above-captioned proceeding, is an original and three copies of a Reply to the Opposition to the Motion to Dismiss or Deny the application of Trudy M. Mitchell.

Should any questions arise concerning this matter, kindly communicate with the undersigned.

Sincerely,

*Alan E. Aronowitz*

Alan E. Aronowitz  
Counsel for  
CAROLINE K. POWLEY  
d/b/a/ UNICORN SLIDELL

Enclosure: Reply to the Opposition to the Motion to Dismiss  
or Deny

cc: Caroline K. Powley

AEA:sj

c:\wp\26011.00\Searcy2.719

RECEIVED

Before the  
Federal Communications Commission  
Washington, D.C. 20554

JUL 19 1991

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Applications of

CAROLINE K. POWLEY  
d/b/a UNICORN SLIDELL  
Slidell, Louisiana

TRUDY M. MITCHELL  
Slidell, Louisiana

For a Construction Permit for a  
new UHF Commercial Television  
Station to Operate on Channel 54,  
Slidell, Louisiana

File No. BPCT-900518KO

File No. BPCT-900726KG

To the Chief, Mass Media Bureau

**REPLY TO OPPOSITION TO  
MOTION TO DISMISS OR DENY**

Caroline K. Powley d/b/a Unicorn Slidell ("Unicorn"), applicant for a construction permit to build a new UHF Commercial Television Station to operate on Channel 54, Slidell, Louisiana, by its attorneys, hereby submits its Reply to the Opposition filed July 17, 1991, to the Motion to Dismiss or Deny the above-captioned application of Trudy M. Mitchell. In support, the following is respectfully shown.

1. In the Motion to Dismiss or Deny, Unicorn demonstrated that the Mitchell application was defective when tendered and should not have been accepted for filing pursuant to Section 73.3566(a) of the Commission's Rules. Among other things, that pleading established that Mitchell's technical proposal was in violation of the separation requirements of Section 73.610(d) and

73.698 of the Commission's Rules, in that it specifies, without recognizing the deficiency or requesting an appropriate waiver, 100 percent short spacing between the proposed Channel 54 facility and operating Station WCCL(TV), Channel 49, New Orleans, Louisiana.<sup>1</sup>

2. On July 17, 1991, Mitchell tendered an Opposition to Unicorn's Motion. Therein, Mitchell does not respond to substantial and serious allegations raised by Unicorn. Instead, Mitchell merely observes that petitions to deny that application must have been filed with the Commission by March 13, 1991.

3. It must first be noted that Unicorn's pleading is not a petition to deny. Nevertheless, Unicorn did request in footnote 1 of its pleading, that, if deemed necessary, the Commission's procedural rules be waived to permit Commission consideration of the issues of transcendent importance to the resolution of this proceeding in the public interest. The facts and circumstances supporting Unicorn's petition may be officially

---

<sup>1</sup> On June 14, 1991, Mitchell tendered an amendment to the application specifying, among other things, a new transmitter site. Unicorn supplemented its Motion to Dismiss or Deny on July 5, 1991, to note that having failed to tender an application in any way sufficiently complete prior to the cut-off date established in this proceeding, a curative amendment tendered after that cut-off date could not correct those deficiencies. These facts are not recognized or addressed in Mitchell's pleading.

noted by the Commission as Mitchell's application speaks for itself. Regardless of the timing Unicorn's pleading, these issues must be recognized and evaluated before this proceeding moves forward.

Accordingly, for the reasons contained in the Motion to Dismiss or Deny, Mitchell's application as tendered is patently not in accordance with the FCC rules, regulations or other requirements, was inadvertently accepted for filing, and it should now be dismissed.

Respectfully submitted,

CAROLINE K. POWLEY d/b/a  
UNICORN SLIDELL

By: 

B. JAY BARAFF

By: 

ALAN E. ARONOWITZ  
Its Attorneys

BARAFF, KOERNER, OLENDER  
& HOCHBERG, P.C.  
5335 Wisconsin Avenue, NW  
Suite 300  
Washington, DC 20015-2003  
202/686-3200

July 19, 1991

**CERTIFICATE OF SERVICE**

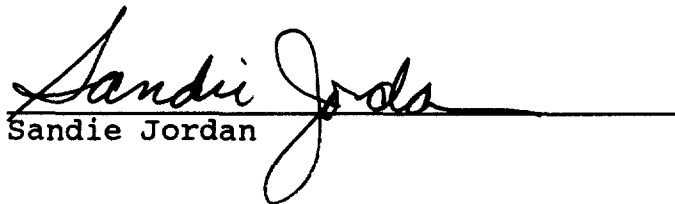
I, Sandie Jordan, a secretary in the law offices of Baraff, Koerner, Olender & Hochberg, P.C., certify that on this 19th day of July, 1991, a copy of the foregoing Reply to Opposition to Motion to Dismiss or Deny was mailed, first-class U.S. mail, postage prepaid to:

Roy Stewart, Esq. \*  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, NW  
Room 314  
Washington, DC 20554

Barbara Kreisman, Esq. \*  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, NW  
Room 702  
Washington, DC 20554

Clay Pendarvis, Esq. \*  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, NW  
Room 700  
Washington, DC 20554

Eugene T. Smith, Esquire  
715 G Street, S.E.  
Washington, DC 20003  
Counsel for Trudy M. Mitchell

  
Sandie Jordan

\* Hand Delivered

AEA:sj

C:\WP\26011.00\Reply